



PAPER B

Purpose: For Decision

Committee report

Committee	COUNCIL
Date	19 JUNE 2013
Title	CONSTITUTIONAL UPDATES: 1. POLITICAL PROPORTIONALITY; 2. PAYMENT OF INTERIM SPECIAL RESPONSIBILITY ALLOWANCES; 3. MEMBERSHIP OF THE EMPLOYMENT COMMITTEE 4. CHANGE TO THE REGISTER OF INTERESTS
Report of	DEPUTY DIRECTOR OF RESOURCES (CORPORATE GOVERNANCE) AND MONITORING OFFICER

EXECUTIVE SUMMARY

1. When a councillor is not a member of a group, appointments to committees need to be agreed by Full Council. This report is to agree committee membership for Cllr Reg Barry who is not part of a group on the council.
2. The report also seeks agreement (subject to recommendations from the Independent Review Panel) to the level of payment of interim Special Responsibility Allowances for the cabinet members, and deputies and chairs of committees appointed at the last council meeting.
3. The report seeks to amend the terms of reference of the Employment Committee by deleting the requirement for the Leader and cabinet member responsible for human resources to be members of that committee.
4. Finally the report seeks to extend the requirements of councillors under the Register of Interests so that membership of outside bodies have to be declared on the register.

BACKGROUND

Appointment to Committees

5. Under the legislation relating to political proportionality, the council has to ensure, as far as is practicable that the number of seats on each committee allocated to each group reflects the political proportionality of the council. Additionally the sum of all the seats on the committees has to, as far as is

practicable, reflect the political proportionality of the council. For the political groups this is achieved through negotiation with the groups with the actual appointments to the committees delegated to officers who implement the wishes of the various group leaders.

6. With regard to Cllr Barry who is not a member of any formal political group on the council (a group has to have a membership of at least two) it is for council to make the necessary appointments, and in doing so council needs to achieve the political proportionality requirements.
7. Currently Cllr Reg Barry is the only member of the 40 members not in a political group. As there are a total of 81 seats across all committees (excluding the Cabinet which as it is not politically proportionate is outside this calculation) Cllr Barry is entitled to have seats on two committees allocated to him. At the annual council meeting Cllr Barry was appointed as the chairman of the Audit Committee and therefore has a seat on that Committee. He therefore needs to be allocated one further committee seat. Following discussions with the groups and Cllr Barry it is suggested that he be appointed to the planning committee, and this be achieved by reducing the number of seats held by the Island Independents on that committee by one (this is necessary to ensure political proportionality across all the committee seats).
8. The political proportionality of the Planning Committee will, if agreed, therefore be:

Island Independents:	5
Conservatives:	5
Labour or UKIP:	1
Cllr Barry:	1

Special Responsibility Allowances

9. At the annual meeting council made a number of appointments, and then following the meeting the Leader appointed cabinet members and deputy cabinet members. Council decided to defer the level of interim Special Responsibility Allowances (SRA) to be paid to councillors for fulfilling these roles until this meeting.
10. Special Responsibility Allowances can be paid (in addition to the basic allowance that is received by all members) to those members with particular special responsibilities as determined by council, following the consideration of advice received from the Independent Remuneration Panel (IRP). This panel is a legal requirement. It consists of four independent members, recruited locally through an open recruitment exercise to make recommendations on the level of allowances paid to Isle of Wight Councillors. However council can determine interim SRAs in advance of the advice from the Independent Remuneration Panel, on the basis that once the Panel have reported, and council has decided on the level of SRAs taking into account the recommendations of the IRP, then the level of SRA paid will be back dated and this will mean either an additional payment in cases where the interim payment has been set lower than what is finally agreed, or recovery of

- the excess in cases where the final SRA is lower than that finally agreed.
11. The proposed interim SRAs are as set out in Appendix A and have been calculated to reflect the following:
 - (a) The expressed wish of the Leader that the SRA paid to the Leader be reduced
 - (b) That the SRA for a cabinet member be split between cabinet members and deputy cabinet members 70/30
 - (c) The change agreed at the annual meeting to split the former Regulatory Committee into a Licensing Committee and a separate Planning Committee
 - (d) That the overall costs do not exceed the previous overall budget provision for all SRAs (£132,520)
 12. In addition to the basic allowance all members receive of £7,903 each year, a share of a fixed pot (of £21,225) which is distributed to members based on two criteria. These are distance from home to County Hall, and an approximate number of meetings attended, decided by bands defined by post holder. So for example of the four meeting bands cabinet members are in the highest band as there is an expectation that they are required to be in County Hall more than a member without any portfolio. This amount contributes to on-island travel costs for members. Council is asked to agree the meeting bands for the various positions as set out in Appendix A, again subject to the consideration of the final recommendations by the IRP.

Membership of the Employment Committee

13. Currently the constitution requires that the Leader and cabinet member responsible for human resources are both members of the employment committee.
14. As this applies to two of the six seats on that committee this restricts the ability for members to be appointed who may have the relevant skills and experiences. At the request of the Leader it is suggested that the reference to these two postholders being on the employment committee is deleted.
15. It will still be possible, if the relevant group request it, for these individuals to be appointed by their group to this committee if they so wish. The change will simply increase the flexibility.

Register of Interests

16. Prior to the Localism Act 2011 all councillors had to complete, within 28 days of taking office, a register of interest that was prescribed by legislation. This included a range of declarations including the membership of outside charities and bodies.
17. The Localism Act 2011, and the regulations made under it, state that "Disclosable Pecuniary Interests", such as employment and property ownership, must be included in the written register of members' interests. However each authority may determine what else it requires to be included in the register of interests for members.

18. On the implementation of the act the council introduced a register of interest that complied with the minimum that was required by legislation, that is only the "Disclosable Pecuniary Interests".
19. However there has been recent comment that membership of various charities and outside bodies can be just as important. Whilst the code of conduct still requires members to address any conflicts that may arise from such an interest, council is asked to consider if it wishes to extend the current register of interests to include membership of all outside bodies and charities. To be clear this will include membership of bodies such as the Freemasons, trade unions and social clubs. This will then be a matter of public record and open to public inspection via the council's web site.
20. A suggested new version of the register of interests, which covers membership of various external bodies and charities, is set out at Appendix B. It is important to note that as drafted the second part (that relates to outside bodies) only relates to membership of such bodies by the member – and not their spouse or partner. The Disclosable Pecuniary Interests (the first part of the form) that are required by law to be included on the register, have to include the interests of the member's spouse/partner.
21. If council agree the new register then this will be made available on the council's web site and all members will be required to complete the new register on line within 28 days.

STRATEGIC CONTEXT

22. Political proportionality is a legal requirement, however having an inclusive approach to decision making assists in good governance which is essential to the delivery of the council's services and the decision making process that supports this.
23. The payment of allowances helps to ensure that no person is disadvantaged financially by being an elected member and serving the community and encourages people from all backgrounds to stand for election.
24. The change to the membership of the Employment Committee will increase the flexibility for that committee contributing to good governance.
25. The proposed changes to the Register of Interests increases the openness and transparency of member's involvement with other organisation and fits well with the Framework for Change document prepared by the Island Independents group.

CONSULTATION

26. As detailed above the political proportionality has required detailed consultation with all the groups, and Cllr Barry.
27. The proposed Special Responsibility Allowances have been calculated on the basis of the criteria set out above, and following informal consultation with the Island Independents.

28. The changes to the Employment Committee terms of reference arise following feedback from the Leader.
29. The proposed amendments to the Register of Interests follows on from a number of comments received from elected members, although there has not been any formal consultation relating to this proposed change.

FINANCIAL / BUDGET IMPLICATIONS

30. There is no cost to the proposed appointment of Cllr Barry to the Planning Committee.
31. The proposed SRAs have been developed so as to keep the total cost within that which was previously paid in total (£132,520) and provided no further SRAs are payable there are no additional costs relating to the decision on interim SRAs. In fact on current appointments there is a saving of £1708.96 per annum.
32. The Independent Remuneration Panel, will consider the level of SRAs and make recommendations to Council. As part of their work they *may* recommend increased SRAs, however it is for Full Council to ultimately determine the level of payments. Council may ask the Independent Remuneration Panel to ensure that any recommendation they make is contained within the existing budget provision for all allowances to members.
33. There are no financial implications with regard to the changes to the Employment Committee or the changes to the Register of Interests.

LEGAL IMPLICATIONS

34. The political proportionality requirements are set out in Local Government and Housing Act 1989 and regulations made under that act. The proposals detailed comply with this legislation.
35. The payment of SRAs is set out in the Local Government and Housing Act 1989 and the Local Government Act 2000. The key point is that at the moment the council can only determine interim SRAs, and these will all be subject to the review (over the autumn) by the Independent Remuneration Panel who will make recommendations to the council. Council is free to determine whatever level of allowances they wish once they have received the report from the Panel, although they must take any recommendations made by the IRP into account. Previously the council has had a policy of adopting all the recommendation of the Panel thus ensuring the independence of the determination of the amounts paid.
36. The membership of the Employment Committee is a matter for Full Council.
37. As previously explained the Localism Act 2011 makes it clear that the determination of what should be included in the Register of Interests (over and above the Disclosable Pecuniary Interests) is a matter for the council to determine.

EQUALITY AND DIVERSITY

38. An initial screening has been undertaken and this shows that the proposals have no impact on those with protected characteristics such as: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
39. The provision of an allowances scheme helps to ensure that those serving as members are not financially disadvantaged and is an important component in the need to attract a wide range of individuals to take on this role.

OPTIONS

40. The options are:
 - (a) To appoint Cllr Barry to the planning committee
 - (b) To not appoint Cllr Barry to the planning committee (in which case this seat remains vacant)
 - (c) To agree the interim SRA's and meeting bands as set out in Appendix A to this report subject to the consideration by the council of the recommendations of the Independent Remuneration Panel on the final SRAs.
 - (d) That the Independent Remuneration Panel be requested to ensure that their final recommendations do not exceed the existing budget provision for member allowances.
 - (e) To agree some other SRA's as determined by council.
 - (f) To remove from the constitution the requirement that the Leader and cabinet member responsible for human resources are both members of the employment committee.
 - (g) To not change the membership of the employment committee.
 - (h) To amend the Register of Interests as set out at Appendix B.
 - (i) To not amend the Register of Interests.
 - (j) To agree any other changes to the Register of Interests.

RISK MANAGEMENT

41. The appointment of Cllr Barry to the planning committee ensures that the council meets its obligations under the legislation relating to political proportionality which contributes to the good governance of the council.
42. By agreeing the interim SRAs there is a risk that once the Independent Remuneration Panel have considered the matter they may well recommend different levels of SRA. Council will be free to agree(or not) these

recommendations as they see fit. This could of course lead to either an over or under payment to the relevant members. However this is overcome as it will be clear that the finally agreed SRAs will be backdated to date of appointment, and that if there has been any overpayment this will be repayable (usually through the payroll).

43. The change to the membership of the employment committee will decrease the risk of this committee not being quorate at any particular time as its membership can be drawn from a wider number of members.
44. The proposed change to the Register of Interests reduces the risk that membership of various outside bodies is not known to the wider population and therefore may increase confidence in the Council's decision making process.

EVALUATION

45. The proposed recommendations will ensure that the committee membership (across all committee seats) is politically proportionate; that members do receive an appropriate SRA before the independent Remuneration Panel can make its final recommendations; and increases the transparency of elected members other interests.

RECOMMENDATION

46. The following are recommended:
 - (a) To appoint Cllr Barry to the planning committee
 - (b) To agree the interim SRA's and meeting bands as set out in Appendix A to this report subject to the consideration by the council of the recommendations of the Independent Remuneration Panel on the final SRAs.
 - (c) That the Independent Remuneration Panel be requested to ensure that their final recommendations do not exceed the existing budget provision for member allowances.
 - (d) To remove from the constitution the requirement that the Leader and cabinet member responsible for human resources are both members of the Employment Committee.
 - (e) To amend the Register of Interests as set out at Appendix B.

APPENDICES ATTACHED

47. Appendix A – suggested SRAs.
48. Appendix B – suggested revised Register of Interests.

BACKGROUND PAPERS

49. [EIA screening assessment](#)

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APPENDIX A

Suggested Interim Special Responsibility Allowances:

	No. appt.	Suggested SRA	Number	Total Cost
Leader	1	£11,549.00	1	£11,549.00
Cabinet member	8	£7,306.00	8	£58,448.00
Deputy Cabinet Member	5	£2,902.00	5	£14,510.00
Overview and Scrutiny Chair	1	£5,532.00	1	£5,532.00
Scrutiny Panels Chair	3	£5,332.00	3	£15,996.00
Audit Chair	1	£3,951.00	1	£3,951.00
Employment Chair	1	£2,902.00	1	£2,902.00
Planning Chair	1	£6,006.13	1	£6,006.13
Planning Vice Chair	1*	£1,201.23	0	£0.00
Licensing Chair	1	£4,804.91	1	£4,804.91
Pension Fund Chair	1	£0.00	1	£0.00
Appeals Committee Chair	1*	£1,580.00	0	£0.00
Chair of Council	1	£5,532.00	1	£5,532.00
Vice Chair of Council	1*	£1,580.00	0	£0.00
Leaders of Groups with 4 or more	1	£1,580.00	1	£1,580.00
				£130,811.04
		Saving on previous SRA Budget:		£1,708.96

*These positions are filled by members also appointed to other positions with a higher SRA and only one SRA per member is payable so the assumption is that higher SRA will be paid in such cases.

Meeting Bands:

Leader	4
Cabinet Member and Deputies	4
Overview and Scrutiny Committee Chairman	4
Scrutiny Panel Chairman	4
Chairman of Council	3
Vice Chairman of Council	2
Chairman Planning Committee	3
Chairman Licensing Committee	3
Planning Vice Chair	2
Audit Chairman	2
Chairman Appeals Committee	2
Chairman Employment Committee	2
Chairman Pension Fund Committee	2
Leader 4 or more	2
Normal Member	1

APPENDIX B

REGISTER OF INTERESTS

ISLE OF WIGHT COUNCIL

The Isle of Wight Council requires all Members to complete this register within 28 days of their election. If your circumstances change you are required, within 28 days of the change, to submit written notification of the change to the Monitoring Officer.

If you need any advice or help to complete this form please contact Davina Fiore – Deputy Director of Resources (Corporate Governance) and Monitoring Officer, Chris Mathews - Corporate Governance Manager and Deputy Monitoring Officer or Helen Miles - Strategic Manager Legal Services and Deputy Monitoring Officer on 821000 or by e-mail.

Name of Member.....

I set out below my interests and those I am aware of relating to my spouse/partner under the various headings.

Disclosable Pecuniary Interests:

These are interests that are required to be declared by the Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. **These declarations relate to you AND any interests you are aware of relating to your spouse or civil partner or a person you live with as husband and wife or as if you were civil partners**

Please put "None" where appropriate.

Category of Interest	Your Interests	Interests of your spouse/partner
Employment, office, trade, profession or vocation carried on for profit or gain. This includes any firm or company in which you or your spouse or your partner are a business partner or director.		

Category of Interest	Your Interests	Interests of your spouse/partner
<p>Sponsorship</p> <p>Any payment or provision of any other financial benefit (other than from the Isle of Wight Council) made or provided in respect of any expenses incurred by you or your spouse or partner in carrying out duties as a member, or towards the election expenses of you or your spouse or partner. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>		

Category of Interest	Your Interests	Interests of your spouse/partner
<p>Contracts</p> <p>Any contract which is made between the Isle of Wight Council and either:</p> <ul style="list-style-type: none"> a) you; your spouse; or your partner; or b) firm in which either you or your spouse or partner is a business partner; or c) a body corporate of which you or your spouse or partner is a director; or d) a body in which you or your spouse or partner has a beneficial interest (that is a firm in which you or your spouse/partner is a business partner or a corporate body in which you or your spouse/partner is a director or an industrial and prudent society where you or your spouse or partner are a member of the management committee or a corporate body in which you or your spouse/partner have a beneficial interest in its securities <ul style="list-style-type: none"> (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged. 		

Category of Interest	Your Interests	Interests of your spouse/partner
<p>Land</p> <p>Any beneficial interest in land which is within the Isle of Wight, excluding an easement, servitude, interest or right in or over land which does not carry with it a right for you or your spouse or partner alone or jointly with another to occupy the land or to receive income.</p> <p>Please give address or description sufficient to identify the location.</p>		
<p>Licences</p> <p>Any licence (alone or jointly with others) to occupy land in the Isle of Wight for a month or longer.</p> <p>Please give address or description sufficient to identify the location.</p>		
<p>Corporate tenancies</p> <p>Any tenancy where (to your knowledge) the landlord is the Isle of Wight Council and the tenant is a body in which you or your spouse or partner, has a beneficial interest.</p> <p>Please give address or description sufficient to identify the location.</p>		

Category of Interest	Your Interests	Interests of your spouse/partner
<p>Securities</p> <p>Any beneficial interest in securities (shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the Financial Services and Markets Act 2000 and other securities of any description other than money deposited with a building society) of a body where that body (to your knowledge) has a place of business or land in the Isle of Wight; and either</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>		

ADDITIONAL INTERESTS AGREED BY THE ISLE OF WIGHT COUNCIL TO BE INCLUDED IN THE MEMBERS REGISTER OF INTERESTS

Only your interests are required for these; not those of your spouse/partner.

1. I am a member of or hold a position of general control or management in the following bodies to which I have been appointed or nominated by the authority as its representative:

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2. I am a member of or hold a position of general control or management in the following:

- a. Public authorities or bodies exercising functions of a public nature:

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- b. company, industrial and provident society, charity, or body directed to charitable purposes (this will include Freemasonry);

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- c. body whose principal purposes include the influence of public opinion or policy;

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- d. trade union or professional association.

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Date:.....

Signed:.....

RECEIVED:

Date:.....

Signed:.....
(Monitoring Officer or their representative)